

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL BROWN, on Behalf of Himself
and Others Similarly Situated,

Plaintiff, 05-CV-5442 (SAS)
– against –

RAYMOND W. KELLY, Commissioner of the
New York City Police Department (NYPD); et al.,

Defendants.
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NOTICE OF MOTION

PLEASE TAKE NOTICE that upon the Memorandum of Law in Support of Plaintiff's Motion for Contempt, the Declaration of J. McGregor Smyth, Jr., dated March 23, 2007 and the exhibits annexed thereto, and upon all prior pleadings, Plaintiff Michael Brown, by his counsel Emery Celli Brinckerhoff & Abady LLP and The Bronx Defenders, will move this Court at the United States Courthouse for the Southern District of New York, 500 Pearl Street, New York, New York, before the Honorable Shira A. Scheindlin, United States District Judge, for an Order:

1. Finding defendants the City of New York and Raymond W. Kelly, Commissioner of the New York City Police Department, in civil contempt of this Court's June 23, 2005 Order which prohibited defendants' enforcement of New York Penal Law § 240.35(1);
2. Imposing prospective coercive sanctions on defendants of \$10,000 for each future violation of the June 23, 2005 Order, payable to the Court, subject to an opportunity

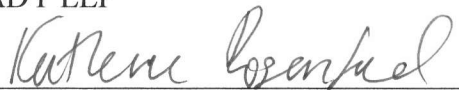
for defendants to purge themselves of contempt and be relieved of their obligation to pay any fines by obeying the Court's Order and publicly declaring their intention to obey the Order;

3. Awarding attorneys' fees and costs for this motion; and
4. For such other and further relief as may be just and proper.

Dated: March 23, 2007
New York, New York

Respectfully submitted,

EMERY CELLI BRINCKERHOFF &
ABADY LLP

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Attorneys for Plaintiff and the putative class